

SECOND REGULAR SESSION

SENATE BILL NO. 709

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS GOODE, BRAY AND RUSSELL.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2637S.01I

AN ACT

To amend chapter 135, RSMo, by adding thereto twenty-six new sections relating to senior citizen homestead deferral of taxes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto twenty-six new sections, to be known as sections 135.037, 135.039, 135.041, 135.043, 135.045, 135.047, 135.049, 135.051, 135.053, 135.059, 135.061, 135.063, 135.065, 135.066, 135.067, 135.073, 135.075, 135.077, 135.079, 135.083, 1, 2, 3, 4, 5, and 6, to read as follows:

135.037. As used in sections 135.037 to 135.083, the following terms shall mean:

- (1) "Department", the department of revenue;
- (2) "Director", the director of revenue;
- (3) "Equity interest", the difference between the true value in money of the property as determined by the county assessor's office and the total of:

- (a) All debts from mortgage liens, deeds of trust, or security interests which are recorded or noted on a certificate of title prior to January first of the current tax year; and

- (b) Accumulated deferred taxes;

- (4) "Homestead", the owner occupied principal dwelling, either real or personal property, owned by the taxpayer and the land surrounding it as it is reasonably necessary for use of the dwelling as a home, not to exceed five acres. If the homestead is located in a multi-unit building, the homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the property upon which it is built. The percentage is the value of the unit consisting of the homestead compared to the total value of the building exclusive of the common elements, if any. If the homestead is located on a farm, the homestead consists of the dwelling

house, appurtenances, and the land used in connection therewith, not to exceed five acres;

(5) "Household", all persons residing in a single dwelling whether related or not;

(6) "Household income", the combined federal adjusted gross income of all members of the household, whether filing jointly or individually;

(7) "Maximum upper limit", thirty-two thousand dollars;

(8) "Tax-deferred property", the property upon which taxes are deferred pursuant to sections 135.037 to 135.083;

(9) "Taxes" or "property taxes", ad valorem taxes, assessments, fees, and charges entered on the assessment and tax roll;

(10) "Taxpayer", an individual who has filed a claim for deferral pursuant to section 135.039 or individuals who have jointly filed a claim for deferral pursuant to section 135.039.

135.039. 1. An individual, or two or more individuals jointly, may elect to defer the property taxes on their homestead by filing a claim for deferral with the county clerk after January first and on or before October fifteenth of the first year in which deferral is claimed if the individual, or, in the case of two or more individuals filing a claim jointly, the older individual, is sixty-two years of age or older on October fifteenth of the year in which the claim is filed.

2. In order to make the election described in subsection 1 of this section, the individual must have, or in case of two or more individuals filing a claim jointly, all of the individuals together must have household income for the calendar year immediately preceding the calendar year in which the claim is filed of less than the maximum upper limit.

3. The county clerk shall forward each claim filed pursuant to this section to the director of revenue which shall determine if the property is eligible for deferral.

4. When the taxpayer elects to defer property taxes for any year by filing a claim for deferral pursuant to subsection 1 of this section, it shall have the effect of:

(1) Deferring the payment of the property taxes levied on the homestead for the year beginning on January first of such year;

(2) Continuing the deferral of the payment by the taxpayer of any property taxes deferred pursuant to section 135.037 to 135.083 for previous years which have not become delinquent pursuant to section 135.061;

(3) Continuing the deferral of the payment by the taxpayer of any future property taxes for as long as the provisions of section 135.041 are met.

5. If a guardian or conservator has been appointed for an individual otherwise qualified to obtain deferral of taxes pursuant to sections 135.037 to 135.083, the guardian or conservator may act for such individual in complying with the provisions of sections 135.037 to 135.083.

6. If a trustee of an inter vivos trust which was created by and is revocable by an individual, who is both the settlor and a beneficiary of the trust and who is otherwise qualified to obtain a deferral of taxes pursuant to sections 135.037 to 135.083, owns the fee simple estate under a recorded instrument of sale, the trustee may act for the individual in complying with the provisions of sections 135.037 to 135.083.

7. Nothing in this section shall be construed to require a spouse of an individual to file a claim jointly with the individual even though the spouse may be eligible to claim the deferral jointly with the individual.

8. Any person aggrieved by the denial of a claim for deferral of homestead property taxes or disqualification from deferral of homestead property taxes may appeal in the manner provided for denial of a claim pursuant to section 143.841, RSMo.

135.041. In order to qualify for tax deferral pursuant to sections 135.037 to 135.083, the property must meet all of the following requirements when the claim is filed and thereafter so long as the payment of taxes by the taxpayer is deferred:

(1) The property must be the homestead of the individual or individuals who file the claim for deferral, except for an individual required to be absent from the homestead by reason of health;

(2) The person claiming the deferral must, by himself or herself or together with his or her spouse, own the fee simple estate or be purchasing the fee simple estate under a recorded instrument of sale, or two or more persons must together own or be purchasing the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the homestead and if all owners apply for the deferral jointly;

(3) There must be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for which the homestead is security;

(4) The equity interest in the homestead is a positive number equal to or exceeding ten percent of the true value in money of the homestead;

(5) The person claiming the deferral must, by himself or herself or together with his or her spouse, show proof of insurance at any time on the homestead in an amount equal to or exceeding the market value as provided in the most recent

tax bill of the homestead, to the director of revenue, and the insurance must be kept in place as long as deferral pursuant to sections 135.037 to 135.083 is maintained.

135.043. 1. A taxpayer's claim for deferral pursuant to section 135.039 shall be in writing on a form supplied by the department and shall:

(1) Describe the homestead;

(2) Recite facts establishing the eligibility for the deferral pursuant to the provisions of sections 135.037 to 135.083, including facts that establish that the household income of the individual, or individuals in the household, was, for the calendar year immediately preceding the calendar year in which the claim is filed, less than the amount required pursuant to section 135.039;

(3) Have attached any documentary proof required by the director to show that the requirements of sections 135.037 to 135.083 have been met.

2. The claim shall be in the form of an affidavit verifying that the statements contained in the claim are true.

135.045. 1. If eligibility for deferral of homestead property is established as provided in sections 135.037 to 135.083, the director of revenue shall notify the county assessor or collector who shall show on the current ad valorem assessment and tax roll which property is tax-deferred property by an entry clearly designating such property as tax-deferred property.

2. When requested by the director, the tax collector shall send to the director, as soon as the taxes are extended upon the roll, the tax statement for each tax-deferred property.

3. Interest shall accrue on the actual amount of taxes advanced to the county for the tax-deferred property at the rate of six percent per annum.

135.047. 1. In each county in which there is tax-deferred property, the director of revenue shall cause to be recorded in the mortgage records of the county, a list of tax-deferred properties of that county. The list shall contain a description of the property as listed on the assessment roll together with the name of the owner or owners listed thereon.

2. Except as provided in section 135.053, the recording of the tax-deferred properties pursuant to subsection 1 of this section is notice that the director claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county clerk in connection with the recording, release, or satisfaction of the lien.

3. Notwithstanding any provisions of law to the contrary, the director shall not be required to pay any filing, indexing, or recording fees to the county in connection with the recording, release, or satisfaction of liens against tax-deferred

properties of that county in advance or at the time entry is made.

135.049. 1. Upon determining the amount of deferred taxes on tax-deferred property for the tax year, the director shall pay to the respective county tax collectors an amount equivalent to the deferred taxes less two percent thereof. Payment shall be made from the account established pursuant to section 135.083.

2. The director shall maintain records for each deferred property and shall accrue interest only on the actual amount of taxes advanced to the county.

3. If only a portion of taxes are deferred pursuant to section 135.065, the director shall pay the portion that will be deferred for that year to the tax collector and shall provide a separate notice to the county assessor stating the amount of property taxes that the director is paying.

135.051. 1. On or before December fifteenth of each year, the director of revenue shall send a notice to each taxpayer who is qualified to claim deferral of property taxes for the current tax year. The notice shall:

(1) Inform the taxpayer that the property taxes have or have not been deferred in the current year;

(2) Show the total amount of taxes remaining deferred since initial application for deferral and the interest accruing therein to November fifteenth of the current year;

(3) Inform the taxpayer that voluntary payment of the deferred taxes may be made at any time to the director of revenue;

(4) Contain any other information that the director considers necessary to facilitate administration of the homestead deferral program.

2. The director shall give the notice required pursuant to subsection 1 of this section by an unsealed postcard or other form of mail sent to the residence address of the taxpayer as shown in the claim for deferral or as otherwise determined by the director to be the correct address of the taxpayer.

135.053. 1. At the time that the taxpayer elects to defer property taxes pursuant to sections 135.037 to 135.083 the director of revenue shall estimate the amount of property taxes that will be deferred for a period of five tax years beginning on or after January 5, 2004, or the year of deferral, whichever is later, and interest thereon. Thereafter, the director shall have a lien in the amount of the estimate. Every five years after filing the initial lien, the director shall file an additional lien for an estimate of the amount of property taxes that will be deferred for the next five years, and interest thereon. The liens provided in this subsection shall be considered part of the public record.

2. The liens created pursuant to subsection 1 of this section shall attach to

the property to which the election to defer relates on January first of the first tax year in which the lien is filed.

3. The liens created pursuant to subsection 1 of this section in the amount of the estimate shall have the same priority as other real property tax liens except that the liens of mortgages, trust deeds, or security interests which are recorded or noted on a certificate of title prior in time to the attachment of the liens for deferred taxes shall be prior to the liens for deferred taxes.

4. If during the period of tax deferment, the amount of taxes, interest, and fees exceeds the estimate, the director shall have a lien for the amount of the excess. The liens for the excess shall attach to the property on January first of the tax year in which the excess occurs. The lien for the excess shall have the same priority as other real property tax liens, except that the lien of mortgages, trust deeds, or security interests recorded or noted on any certificate of title prior in time to the date that the director records an amendment to its estimate to reflect its lien for the excess shall be prior to the lien for the excess.

5. Notwithstanding the provisions of section 135.047, the notice of lien for deferred taxes recorded as provided in section 135.047 arising on or after January 5, 2004, shall list the amount of the estimate of deferred taxes, interest, and fees made by the director pursuant to subsection 1 of this section and any amendment to the notice to reflect a lien for excess, as described pursuant to subsection 4 of this section, shall list the amount of the excess that the director claims as lien.

6. A lien created pursuant to this section may be foreclosed by the director pursuant to the law relating to foreclosure in civil suits or any other collection methods given the director of revenue. The court may award reasonable attorney fees to the prevailing party in a foreclosure action pursuant to this section.

7. Receipts from foreclosure proceedings shall be credited in the same manner as other repayments of deferred property taxes pursuant to section 135.083.

8. By means of voluntary payment made as provided pursuant to section 135.067, the taxpayer may limit the amount of the lien for deferred taxes created pursuant to this section. If the taxpayer desires that the limit be reflected in the records of the county, the taxpayer must request, subject to any rules adopted by the director, that the director cause a partial satisfaction of the lien to be recorded in the county. Upon receipt of such a request, the director shall cause a partial satisfaction, in the amount of the voluntary payment, to be so recorded. Nothing in this subsection shall affect the priority of the liens of the director, as originally created pursuant to subsections 1 and 4 of this section.

9. Nothing in this section shall affect any lien arising pursuant to sections

135.037 to 135.083 for taxes assessed before January 5, 2004.

135.059. Subject to section 135.063, all deferred property taxes, including accrued interest, become payable as provided in section 135.061 when:

(1) The taxpayer who claimed deferment of collection of property taxes on the homestead dies or, if there was more than one claimant, the survivor of the taxpayers who originally claimed deferment of collection of property taxes pursuant to section 135.039 dies;

(2) Except as provided in section 135.057, the property with respect to which deferment of collection of taxes is claimed is sold, or some person other than the taxpayer who claimed the deferment becomes the owner of the property;

(3) The tax-deferred property is no longer the homestead of the taxpayer who claimed the deferral, except in the case of a taxpayer required to be absent from such tax-deferred property by reason of health;

(4) The tax-deferred property, a manufactured structure or floating home, is moved out of the state.

135.061. 1. Whenever any of the circumstances listed in section 135.059 occurs:

(1) The deferral of taxes for the assessment year in which the circumstance occurs shall continue for such assessment year; and

(2) The amounts of deferred property taxes, including accrued interest, for all years shall be due and payable on the date of closing or the date of probate to the director of revenue, except as provided in subsection 3 of this section, section 135.063 and section 135.075.

2. Notwithstanding the provisions of subsection 1 of this section and section 135.075, when the circumstances occur listed in subsection 4 of section 135.059, the amount of deferred taxes shall be due and payable five days before the date of removal of the property from the state.

3. If the amounts falling due as provided in this section are not paid on the indicated due date, or as extended pursuant to section 135.075, such amounts shall be deemed delinquent as of that date and the property shall be subject to foreclosure as provided in section 135.053.

135.063. 1. Notwithstanding the provisions of section 135.059, when one of the circumstances listed in section 135.059 occurs, the spouse who was not eligible to or did not file a claim jointly with the taxpayer may continue the property in its deferred tax status by filing a claim within the time and in the manner provided pursuant to section 135.039 if:

(1) The spouse of the taxpayer is or will be sixty years of age or older not later than six months from the day the circumstance listed in section 135.059

occurs; and

(2) The property is the homestead of the spouse of the taxpayer and meets the requirements of subsection 2 of section 135.041.

2. A spouse who does not meet the age requirements of subsection 1 of this section but is otherwise qualified to continue the property in its tax-deferred status pursuant to subsection 1 of this section may continue the deferral of property taxes deferred for previous years by filing a claim within the time and in the manner provided pursuant to section 135.039. If a spouse eligible for and continuing the deferral of taxes previously deferred pursuant to this subsection becomes sixty-two years of age prior to October fifteenth of any year, the spouse may elect to continue the deferral of previous years' taxes deferred pursuant to this subsection and may elect to defer the current assessment year's taxes on the homestead by filing a claim within the time and in the manner provided pursuant to section 135.039. Thereafter, payment of the taxes levied on the homestead and deferred pursuant to this subsection and payment of taxes levied on the homestead in the current assessment year and in future years may be deferred in the manner provided in and subject to sections 135.037 to 135.083.

3. Notwithstanding that section 135.039 requires that a claim be filed no later than October fifteenth, if the director of revenue determines that good and sufficient cause exists for the failure of a spouse to file a claim pursuant to this section on or before October fifteenth, the claim may be filed within one hundred eighty days after notice of taxes due and payable pursuant to section 135.037 is mailed or delivered by the director to the taxpayer or taxpayers.

135.065. 1. Notwithstanding the provisions of section 135.039 or any other provision of sections 135.037 to 135.083, if the individual or, in the case of two or more individuals electing to defer property taxes jointly, all of the individuals together, or the spouse who has filed a claim pursuant to section 135.063, has household income that exceeds the maximum upper limit for the tax year that began in the previous calendar year, then for the tax year next beginning, the amount of taxes for which deferral is allowed shall be reduced by fifty cents for each dollar of household income in excess of the maximum upper limit or if that income exceeds the maximum upper limit by a factor of two, the property taxes shall not be deferred.

2. Prior to December first of each year, the director of revenue shall review returns filed pursuant to chapter 143, RSMo, to determine if subsection 1 of this section is applicable for a homestead for the tax year next beginning. If subsection 1 of this section is applicable, the director shall notify by mail the taxpayer or taxpayers electing deferral, and the taxes otherwise to be deferred for the tax year

next beginning shall be reduced as provided in subsection 1 of this section or, if household income in excess of the maximum upper limit exceeds the maximum upper limit by a factor of two, the property taxes shall not be deferred.

3. If the taxpayer or taxpayers does not file a return for purposes of chapter 143, RSMo, and the director has reason to believe that the federal adjusted gross income of the taxpayer or taxpayers exceeds the maximum upper limit for the tax year that began in the previous calendar year, the director shall notify by mail the taxpayer or taxpayers electing deferral. If, within thirty days after the notice is mailed, the taxpayer or taxpayers does not file a return pursuant to chapter 143, RSMo, or otherwise satisfy the director that household income does not exceed the maximum upper limit, the director shall again notify the taxpayer or taxpayers, and the taxes otherwise to be deferred for the tax year next beginning shall not be deferred.

4. Nothing in this section shall affect the continued deferral of taxes that have been deferred for tax years beginning prior to the tax year next beginning or the right to deferral of taxes for a tax year beginning after the tax year next beginning if subsection 1 of this section is not applicable for that tax year for the homestead.

5. If, after an initial determination pursuant to this section has been made by the director, upon audit or examination or otherwise, it is discovered that the taxpayer or taxpayers had household income in excess of the limitation provided pursuant to subsection 1 of this section, the director shall determine the amount of taxes deferred that should not have been deferred and give notice to the taxpayer or taxpayers of the amount of taxes that should not have been deferred. The provisions of chapter 143, RSMo, shall apply to a determination of the director pursuant to this section in the same manner as those provisions are applicable to an income tax deficiency. The amount of deferred taxes that should not have been deferred shall bear interest from the date paid by the director until paid at the rate of six percent. A deficiency shall not be assessed pursuant to this section if notice required pursuant to this section is not given to the taxpayer or taxpayers within three years after the date that the director has paid the deferred taxes to the county. Upon payment of the amount assessed as deficiency, and interest, the department shall execute a release in the amount of the payment and the release shall be conclusive evidence of the removal and extinguishment of the lien pursuant to sections 135.037 to 135.083 to the extent of the payment.

6. If, after an initial determination pursuant to this section has been made by the director, upon claim for refund, audit or examination or otherwise, it is discovered that the taxpayer or taxpayers had household income in the amount of

or less than the limitation provided pursuant to subsection 1 of this section, the director shall determine the amount of taxes deferred that should have been deferred and give notice to the taxpayer or taxpayers of the amount of taxes that should have been deferred. The provisions of chapter 143, RSMo, shall apply to a determination of the director pursuant to this section in the same manner as those provisions are applicable to an income tax refund. The amount of the taxes that should have been deferred shall bear interest from the date paid by the taxpayer to the county at the rate established by the director of revenue for refunds until paid. Claim for refund pursuant to this subsection must be filed within three years after the earliest date that the taxpayer or taxpayers is notified by the director that the taxes are not deferred.

7. This section applies to all tax-deferred property, notwithstanding that election to defer taxes is made pursuant to sections 135.037 to 135.083 before or after January 5, 2004.

135.066. Any taxpayer or taxpayers who have a household income of up to twice the maximum upper limit who have been precluded from deferring any portion of their property tax due to their household income being in excess of the maximum upper limit, may qualify for a deferral of the amount of property tax which has increased on their homestead since January first in the base year. Pursuant to the provisions of this section, the term "base year" shall mean the year beginning January first after the sixty-second birthday of the person otherwise qualified to claim the deferral pursuant to sections 135.037 to 135.083, however, base year shall not mean any year prior to the year beginning January 5, 2004. Such deferral shall be subject to the provisions of sections 135.037 to 135.083 as if it were a deferral pursuant to section 135.039.

135.067. 1. All payments of deferred taxes shall be made to the director of revenue.

2. Subject to subsection 3 of this section, all or part of the deferred taxes and accrued interest may at any time be paid to the director by:

- (1) The taxpayer or the spouse of the taxpayer;
- (2) The next of kin of the taxpayer, heir at law of the taxpayer, child of the taxpayer or any person having or claiming a legal or equitable interest in the property.

3. A person listed in subdivision (2) of subsection 2 of this section may make such payments only if no objection is made by the taxpayer within thirty days after the director deposits in the mail notice to the taxpayer of the fact that such payment has been tendered.

4. Any payment made pursuant to this section shall be applied first against

accrued interest and any remainder against the deferred taxes. Such payment does not affect the deferred tax status of the property. Unless otherwise provided by law, such payment does not give the person paying the taxes any interest in the property or any claim against the estate, in the absence of a valid agreement to the contrary.

5. The provisions of subsection 4 of this section notwithstanding, if any taxpayer in the deferral program pays part or all of the current year property tax liability in a timely manner, such payment shall be applied against the principal of the deferred taxes and then against any interest, if applicable.

6. When the deferred taxes and accrued interest are paid in full and the property is no longer subject to deferral, the director shall prepare and record in the county in which the property is located a satisfaction of deferred property tax lien.

135.073. 1. If the property on which taxes have been deferred is deeded over to the county at the conclusion of the foreclosure proceedings pursuant to chapter 141, RSMo, the county governing body shall order the county treasurer to pay to the director of revenue from the combined tax collections account the amount of deferred taxes and interest which were not collected by the director of revenue, which payment shall not exceed the amount collected by the foreclosure proceedings minus reasonable expenses incurred by the county as a result of the foreclosure process.

2. Immediately upon payment, the county treasurer shall notify the tax collector of the amount paid to the director for the property which has been deeded to the county.

135.075. 1. If the taxpayer who claimed homestead property tax deferral dies, or if a spouse who continued the deferral pursuant to section 135.063 dies, the director of revenue may extend the time for payment of the deferred taxes and interest accruing with respect to the taxes becoming due and payable pursuant to subsection 2 of section 135.061 where:

(1) The homestead property becomes property of an individual or individuals:

(a) By inheritance or devise; or

(b) If the individual or individuals are heirs or devisees, as defined pursuant to section 472.010, RSMo, in the course of settlement of the estate;

(2) The individual or individuals commence occupancy of the property as a principal residence on or before February fifteenth of the calendar year following the calendar year of death; and

(3) The individual or individuals make application to the director for an

extension of time for payment of the deferred taxes and interest prior to February fifteenth of the calendar year following the calendar year of death.

2. (1) Subject to subdivision (2) of this subsection, an extension granted pursuant to this section shall be for a period not to exceed five years after February fifteenth of the calendar year following the calendar year of death. The terms and conditions under which the extension is granted shall be in accordance with a written agreement entered into by the director and the individual or individuals.

(2) An extension granted pursuant to this section shall terminate immediately if:

(a) The homestead property is sold or otherwise transferred by any party to the extension agreement;

(b) All of the heirs or devisees who are parties to the extension agreement cease to occupy the property as a principal residence; or

(c) The homestead property, a manufactured structure or floating home, is moved out of the state.

3. If the director has reason to believe that the homestead property is not sufficient security for the deferred taxes and interest, the director may require the individual or individuals to furnish a bond conditioned upon payment of the amount extended in accordance with the terms of the extension. The bond shall not exceed an amount double the taxes with respect to which tax extension is granted.

4. During the period of extension, and until paid, the deferred taxes shall continue to accrue interest in the same manner and at the same rate as provided pursuant to subsection 3 of section 135.045. No interest shall accrue upon interest.

5. When any taxpayer who claimed homestead property tax deferral dies, the spouse, heirs and devisees, as defined pursuant to section 472.010, RSMo, shall within sixty days notify in writing the director of the taxpayer's death. Notification of the director by one of the aforementioned parties shall satisfy the requirements of this subsection.

135.077. Nothing in section 135.037 to 135.083 is intended to or shall be construed to:

(1) Prevent the collection, by foreclosure, of property taxes which become a lien against tax-deferred property;

(2) Defer payment of special assessments to benefitted property which assessments do not appear on the assessment and tax roll;

(3) Affect any provision of any mortgage or other instrument relating to land requiring a person to pay property taxes.

135.079. After August 28, 2004, it shall be unlawful for any mortgage trust deed or land sale contract to contain a clause or statement which prohibits the owner from applying for the benefits of the deferral of homestead property taxes provided in sections 135.037 to 135.083. Any such clause or statement in a mortgage trust deed or land sale contract executed after August 28, 2004, shall be void.

135.083. 1. There is hereby established in the state treasury the "Senior Property Tax Deferral Revolving Account" to be used by the director of revenue for the purpose of making the payments to:

(1) County tax collectors of property taxes deferred for tax years beginning on or after January 5, 2004, as required by section 135.049;

(2) The director for expenses to administer the property tax and special assessment senior deferral programs.

2. The funds necessary to make payments pursuant to subsection 1 of this section shall be advanced annually to the director.

3. The senior property tax deferral revolving account may include a reserve for payment of department administrative expenses.

4. All sums of money received by the director of revenue pursuant to sections 135.037 to 135.083 as repayments of deferred property taxes including the interest accrued pursuant to subsection 3 of section 135.045 shall, upon receipt, be credited to the revolving account for the purposes set forth in sections 135.037 to 135.083 subject to appropriations.

5. If there is not sufficient money in the revolving account to make the payments required by subsection 1 of this section, an amount sufficient to make the required payments may be transferred by appropriations from the general revenue fund to the revolving account.

6. When the department determines that moneys in sufficient amounts are available in the revolving account, the director shall repay to the general revenue fund the amounts advanced pursuant to subsection 2 of this section or if no such transfer is made by the director, the general assembly may transfer excess funds from the revolving account to the general revenue fund. The moneys used to repay the general revenue fund pursuant to this section shall not be considered as part of the calculation of total state revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the revolving account shall not lapse to general revenue.

7. If there are insufficient funds in the general revenue to provide the necessary funding to the revolving account established in this section, the commissioner of administration may issue revenue bonds pursuant to sections 1

to 6 of this act.

Section 1. As used in sections 1 to 6 of this act, the following words and phrases mean:

(1) "Commissioner", the commissioner of administration;

(2) "Revenue bonds", bonds issued hereunder for the purposes herein authorized and payable, both as to principal and interest, solely and only out of the net income and revenues arising from the operation of the revolving account for which the bonds are issued after providing revenue for such revolving account;

(3) "Revolving account", the senior property tax deferral revolving account established pursuant to section 135.083, RSMo.

Section 2. For the purpose of providing funds for the revolving account, the commissioner may issue and sell revenue bonds, as herein defined, in an amount not to exceed the estimated revenue required to reasonably maintain the revolving account, including costs necessarily incidental thereto. At the time of the issuance of the bonds, the commissioner shall pledge the net income and revenues of the revolving account to the payment of the bonds, both principal and interest, and shall covenant to fix, maintain and collect the reasonable rates and charges for the use of the revolving account that in the judgment of the commissioner will provide revenues sufficient to pay the reasonable cost of operating and maintaining the revolving account; to provide and maintain an interest and sinking fund in an amount adequate promptly to pay the principal of and interest on such bonds; to provide a reasonable reserve fund; and to provide a reasonable fund for depreciation.

Section 3. Any bonds issued under and pursuant to sections 1 to 6 of this act shall not be deemed to be an indebtedness of the state of Missouri or of the commissioner, or of the individual members of the office of administration, and shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness.

Section 4. 1. Bonds issued under and pursuant to the provisions of sections 1 to 6 of this act shall be of such denomination or denominations, shall bear such rate or rates of interest not to exceed fifteen percent per annum, and shall mature at such time or times within forty years from the date thereof, as the commissioner determines. The bonds may be either serial bonds or term bonds.

2. Serial bonds may be issued with or without the reservation of the right to call them for payment and redemption in advance of their maturity, upon the giving of such notice, and with or without a covenant requiring the payment of a premium in the event of such payment and redemption prior to maturity, as the commissioner determines.

3. Term bonds shall contain a reservation of the right to call them for payment and redemption prior to maturity at such time or times and upon the giving of such notice, and upon the payment of such premium, if any, as the commissioner determines.

4. The bonds, when issued, shall be sold at public sale for the best price obtainable after giving such reasonable notice of such sale as may be determined by the commissioner, but in no event shall such bonds be sold for less than ninety-eight percent of the par value thereof, and accrued interest. Any such bonds may be sold to the United States of America or to any agency or instrumentality thereof, at a price not less than par and accrued interest, without public sale and without the giving of notice as herein provided.

5. The bonds, when issued and sold, shall be negotiable instruments within the meaning of the law merchant and the negotiable instruments law, and the interest thereon shall be exempt from income taxes under the laws of the state of Missouri.

Section 5. 1. The revenue bonds issued pursuant to the provisions of sections 1 to 6 of this act may be refunded, in whole or in part, in any of the following circumstances:

(1) When any such bonds have by their terms become due and payable and there are not sufficient funds in the interest and sinking fund provided for their payment to pay such bonds and the interest thereon;

(2) When any such bonds are by their terms callable for payment and redemption in advance of their date of maturity and are duly called for payment and redemption;

(3) When any such bonds are voluntarily surrendered by the holder or holders thereof for exchange for refunding bonds.

2. For the purpose of refunding any bonds issued hereunder, including refunding bonds, the commissioner may make and issue refunding bonds in the amount necessary to pay off and redeem the bonds to be refunded together with unpaid and past due interest thereon and any premium which may be due under the terms of the bonds, together also with the cost of issuing the refunding bonds, and may sell the same in like manner as is herein provided for the sale of revenue bonds, and with the proceeds thereof pay off, redeem and cancel the old bonds and coupons that have matured, or the bonds that have been called for payment and redemption, together with the past due interest and the premium, if any, due thereon, or the bonds may be issued and delivered in exchange for a like par value amount of bonds to refund which the refunding bonds were issued. No refunding bonds issued pursuant to the provisions of sections 1 to 6 of this act shall be

payable in more than forty years from the date thereof or shall bear interest at a rate in excess of six percent per annum.

3. The refunding bonds shall be payable from the same sources as were pledged to the payment of the bonds refunded thereby and, in the discretion of the commissioner, may be payable from any other sources which under sections 1 to 6 of this act may be pledged to the payment of revenue bonds issued hereunder. Bonds of two or more issues may be refunded by a single issue of refunding bonds.

Section 6. The commissioner may prescribe the form, details and incidents of the bonds, and make the covenants that in the commissioner's judgment are advisable or necessary properly to secure the payment thereof; but the form, details, incidents and covenants shall not be inconsistent with any of the provisions of sections 1 to 6 of this act. Such bonds may have the seal of the commissioner impressed thereon or affixed thereto or imprinted or otherwise reproduced thereon. If such bonds shall be authenticated by the bank or trust company acting as registrar for such bonds by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the commissioner executing and attesting such bonds, may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the commissioner and the provisions of section 108.175, RSMo, shall not apply to such bonds. The holder or holders of any bond or bonds issued hereunder or of any coupons representing interest accrued thereon may, by proper civil action either at law or in equity, compel the commissioner to perform all duties imposed upon him or her by the provisions of sections 1 to 6 of this act, including the making and collecting of sufficient rates and charges for the use of the project for which the bonds were issued, and also to enforce the performance of any and all other covenants made by the commissioner in the issuance of the bonds.

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